

REMARKS

Claims 1 and 6-63 are pending in the application. Claim 63 has been newly added. Claims 6-61 are withdrawn from consideration as being directed to a non-elected species.

Claims 1 and 62 are rejected under 35 USC §112, second paragraph, as being indefinite. This rejection is respectfully traversed.

The position set forth in the Official Action is that the specification does not describe "at least one objective lens and one eyepiece" and "at least one optical element positioned and arranged to match parallaxes...movable along a curved path". As noted in the Official Action, such recitation implies three distinct optical lenses. The position set forth in the Official Action is that objective lens 11 is the optical element such that there is only two lenses. The position set forth above is believed untenable for the following reasons.

Page 11, lines 10-26 disclose optical elements 11 can be moved back and forth such that the refractive property of their respective position yields the angle 13 necessary for each selected working distance A between the beam paths 14 emerging from the tubes 1. Such disclosure is in conjunction with Figure 1 which shows optical elements 11. The optical elements may include the objective lens; however, this is not necessarily the only case.

Specifically, page 22, lines 1-15 of the specification as filed, disclose at least one objective lens 70 and one eyepiece 71. In addition to these elements, a means for matching the parallax between the lens systems of the vision aid to the focal length which is set each time according to the distance of the telescopic spectacles from the object are assigned to the lens systems is disclosed. The parallax is matched using adjustable optical elements 11 which are provided in the beam path of the lens systems. Accordingly, this passage teaches that there are three distinct optical lenses: objective lens 70, eyepiece 71 and optical elements 11. Although none of the figures show each of the three lenses, the recitation of three distinct optical lenses is supported by the specification as filed.

In the embodiment of Figure 11, optical lens 70 and eyepiece 71 are shown. In addition, a curved element unnumbered is also shown. This curved element is similar to the curved element 12 of Figure 1 which represents the path along which optical elements 11 travel. Accordingly, there is believed support in the specification as filed for at least one objective lens and one eyepiece and at least one optical element positioned and arranged to match parallaxes. Therefore, there is support for three distinct optical lenses and the rejection under 35 USC §112, second paragraph, should be withdrawn.

Claims 1 and 62 are rejected as unpatentable over KANDA 4,886,340 in view of Austrian Patent Publication No. AT 000307 (AT-307). This rejection is respectfully traversed.

The position set forth in the Official Action is that KANDA teaches an objective lens 5 and an eyepiece 4. The Official Action also indicates that element 5 is positioned and arranged to match parallaxes between the lens systems of the vision aid to the focal length. The Official Action offers column 3, line 55 through column 4, line 2 of KANDA as providing support for this position.

Applicant has thoroughly reviewed KANDA, and especially the passage noted in the Official Action and is unable to discern optical elements that are distinct from the objective lenses and eyepiece and that are adjustable for matching parallaxes. The passage noted in the Official Action teaches adjusting a distance between eyes. Specifically, Figure 6 of KANDA (which is described in the passage noted in the Official Action) shows eyes 7 that have a large distance therebetween as indicated in the solid lines in Figure 6 and eyes 7 having a small distance therebetween as indicated in broken lines of Figure 6. The distance between eyes is adjusted by rotating arms 6 to move objective lens 5 and rotating arm 17 to move eyepiece 4. Accordingly, it appears that such rotation has a sole purpose of adapting the vision aid of KANDA to the distance of the eyes of a

user. This passage does not appear to disclose or suggest that parallaxes are matched.

In addition, MPEP §2143.03 states that to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Even if elements 5 of KANDA are able to be adjustable for matching parallaxes, the claims of the present invention require three distinct lenses and KANDA only shows two lenses, the objective lens 5 and the eyepiece 4. KANDA does not show a third lens, specifically an optical element positioned and arranged to match parallaxes between the lens systems of the vision aid as recited in claim 1 of the present application.

In addition, it does not appear that KANDA teaches at least one optical element that is movable along a curved path that crosses a beam path internal to the vision aid for changing an angle between external beam paths which run out of the respective lens systems towards the object as further recited in claim 1 of the present application. Specifically, Figure 6 of KANDA shows a constant 180° beam path along line 8 from the eye 7 to the object 9.

AT-307 is only cited for the teaching of an autofocusing means and a means for changing the magnification factor of the lens system. AT-307 does not teach or suggest at

least one objective lens and one eyepiece and at least one optical element positioned and arranged to match parallaxes as recited in claim 1. In addition, AT-307 does not teach or suggest at least one optical element is movable along a curved path that crosses a beam path internal to the vision aid for changing an angle between external beam paths which run out of the respective lens systems towards the object as further recited in claim 1.

The above-noted features are missing from each of the references, are absent from the combination and are thus not obvious to one having ordinary skill in the art.

Claim 62 depends from claim 1 and further defines the invention and is also believed patentable over the cited prior art.

New claim 63 provides that the at least one optical element is between the at least one objective lens and the eyepiece. Support for claim 63 can be found in Figure 11 wherein the unlabeled curved guide represents the movement of the optical elements.

As noted in the Official Action, claim 1 is indicated as generic. Since claim 1 is believed allowable, withdrawn claims 6-61 should also be considered and allowed.

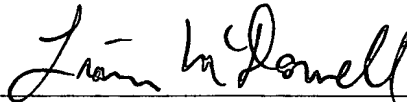
In view of the present amendment and the foregoing remarks, it is believed that the present application has been

placed in condition for allowance. Reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17.

Respectfully submitted,

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